

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CELSO LEON,

Petitioner,

No. CIV S-04-2631 FCD JFM P

VS.

BEN CURRY, Warden,

Respondent.

ORDER

Petitioner is a state prisoner proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 9, 2008, respondent filed a request to vacate this court's May 29, 2008 findings and recommendations in light of Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008), reh'g en banc granted, ____ F.3d ___, 2008 WL 2131400, No. 06-55392 (9th Cir. 2008). Good cause appearing, respondent's request will be granted.

In addition, respondent seeks substitution of Ben Curry, the current warden, as the respondent herein. Good cause appearing, that request will also be granted.

Accordingly, IT IS HEREBY ORDERED that:

1. Respondent's June 9, 2008 requests are granted;
2. The May 29, 2008 findings and recommendations are vacated; and

3. The Clerk of the Court is directed to change the caption of this case to Celso Leon v. Ben Curry, Warden.

DATED: June 10, 2008.

John F. Wark
UNITED STATES MAGISTRATE JUDGE

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